

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 2199 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated
27/04/2004 in WP NO : 15392 OF 2003 on the file of the High Court.)

Between:

Gouri Shankar Gas Agency, Rep. by its Proprietor,
B. Gangadhara Reddy S/o Sri Ananthaiah, Aged about 42 years, Occ: Business,
R/o MIG- 4/2, Nandikotkur, Kurnool District.

..... APPELLANT

AND

- 1 Ramana Reddy, S/o M.V. Konda Reddy,
R/o Sri Bhagya Lakshmi Gas Agencies, BPC Limited, Plot No. 49, Nagireddy
Revenue Colony, Nandyal Road, Kurnool.
- 2 The Joint Collector, Kurnool.

.....RESPONDENT(S)

Counsel for the Appellant: MR.A.SUDERSHAN REDDY

Counsel for the Respondent No.1:Mr.L. Ravichander: Not present

Counsel for the Respondent No.2: GP FOR CIVIL SUPPLIES

The Court made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

Appeal is by the 2nd respondent in the writ petition who got himself impleaded by order dated 27.4.2004 in the writ petition filed by the 1st respondent-writ petitioner. Appellant is aggrieved by the order passed on 27.4.2004 by learned single judge disposing of W.P.M.P. No.19044 of 2003 and W.V.M.P. Nos. 2841 of 2003 and 1280 of 2004.

Learned single judge by the order impugned in the appeal ordered that permission granted to the writ petitioner to open extension L.P.G. out point at Nandikotkur will be subject to policy guidelines and where no dealer is appointed to the said area. If a dealer has been appointed by the oil company, the writ petitioner cannot continue the extension counter.

Learned counsel for the appellant submits that this order is misconstrued by the Hindustan Petroleum Corporation Ltd.

Despite the fact that the name of the counsel for the writ petitioner is duly shown in the cause list and papers were served on him, nobody appeared for the writ petitioner.

We have heard the learned counsel for the appellant and have gone through the record.

On 3.7.2003, the Joint Collector, Kurnool passed orders in favour of the writ petitioner, permitting it to open extension point at Nandikotkur in order to provide better customer services to the beneficiaries of "Deepam Scheme". This order was cancelled on 18.7.2003 with immediate effect in view of the guidelines issued by the State Level Coordinator, A.P. & CRM- Retail, HPCL, Secunderabad. The writ petitioner challenging the order of 18.7.2003, filed Writ Petition No. 15392 of 2003.

Hindustan Petroleum Corporation Ltd., is already operating one extension counter at Nandikotkur and appellant is the Gas Agency in operation since 1989. Since there was already a Gas Agency and appellant as distributor has not become viable, grant

of permission in favour of the writ petitioner was bad and contrary to the policy.

Since the very order of cancellation of the permission was under challenge, there can be no interim order in favour of the writ petitioner. Therefore, learned single judge ought to have vacated the interim order. Instead of doing so, the order impugned in the appeal has been passed by the learned single judge, which is not sustainable in law.

The writ appeal is accordingly allowed. The impugned order is set aside. W.P.M.P. No. 19044 of 2003 is dismissed. W.V.M.P. No. 1280 of 2004 and W.V.M.P. No. 2841 of 2003 are accordingly ordered. No costs.

DEVINDER GUPTA, CJ

Date: 20th January, 2005

M. NARAYANA REDDY, J

Pnb

To

1. The Joint Collector, Kurnool.
2. Two C.Cs. to Government Pleader for Civil Supplies, High Court Building, Hyderabad (OUT)
3. Two C.D. copies